IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

-

WRIT PETITION NO : 2740 of 2005

Between:

Sai Rukmini Flat Owner's Association,

H.No.6-1-155/A, Padma Rao Nagar, Secunderabad.
Represented by its Secretary Sri V.Ramanujam, S/o Late R.Venkata Chary.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad.
Tank Bund, Hyderabad.
2 The Station House Officer, Chilakalaguda Police Station,
Chilakalaguda , Secunderabad.
3 C.V.L.Narasimha Rao, S/o Not known the Petitioner,
R/o 501, Gharonda Veera Apartments, Padma Rao Nagar, Secunderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the in action of the respondents in clearing the debits in the Ground Floor of Sai Rukmini Apartment
6-1-155, Padma Rao Nagar, Secunderabad pursuant to the representations made by petitioner association as illegal, arbitrary and hazardous to the lives of the members of the petitioner association and further direct the first respondent to clear the debris or in alternative direct the second respondent to provide police protection to the petitioner association to clear the debris and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for the Respondent No.1: Mr. Polisetti Radhakrishna

S.C. for MCH

Counsel for the Respondent No.2: G.P. FOR MUNCIPAL ADMN.

& URBAN DEV.

The Court at the stage of admission made the following

ORDER:

Petitioner is the owner's association of the flats in Sai Rukmini Apartments, situated at premises bearing
No.6-1-155, Padmarao nagar, Secundrabad.

(2) It is the case of the petitioner that since the builder of the apartment constructed the flats in the first floor without valid permission, first respondent demolished the flats and has not cleared the debris and so the residents of the flats are put to any amount of inconvenience and so the first respondent may be directed to clear the debris.

(3) First respondent has a right and authority to demolish the constructions that are unauthorizedly constructed, so the action of the first respondent in demolishing the alleged unauthorised constructions cannot be questioned. The owner of the property who made the unauthorised constructions has to clear the debris and so, the petitioner has to approach the third respondent, who is the builder, to clear the debris, and cannot seek any direction to the first respondent. Since third respondent is a private individual question of giving any direction to him in a petition filed under Section 226 of the Constitution of India does not arise. The remedy of the petitioner is to approach the civil court and seek the said relief.

(4) Hence, the writ petition is dismissed. No costs.

_____

C.Y. SOMAYAJULU, J

Date: 29th April, 2005

lsn

To

1 The Commissioner, Municipal Corporation of Hyderabad.
Tank Bund, Hyderabad.
2 The Station House Officer, Chilakalaguda Police Station,
Chilakalaguda , Secunderabad.
3 C.V.L.Narasimha Rao, S/o Not the Petitioner,
R/o 501, Gharonda Veera Apartments, Padma Rao Nagar, Secunderabad.

4 Two CCs to G.P. for Municipal Administration & Urban Development,

High Court Buildings, Hyderabad (OUT).

5 Two CD copies